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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,263	02/24/2004	Harushi Muramatsu	040034	1218

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EXAMINER

LUU, MATTHEW

ART UNIT	PAPER NUMBER
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3663

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/784,263	Applicant(s) MURAMATSU ET AL.	
	Examiner LUU MATTHEW	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 1-2 and 4-8 are objected to because of the following informalities:

Regarding claim 1, line 3, the term “on a side of the touring bus” may be misconstrued literally as “on the left/right side of the touring bus”. Therefore, to avoid misunderstanding of the claimed language, the term “on a side of the touring bus” should be changed to “on a terminal of the touring bus”.

Claim 1, line 8, the term “on the side of the user” may be misconstrued literally as “on the left/right side of the user”. Therefore, to avoid misunderstanding of the claimed language, the term “on a side of the user” should be changed to “on a terminal of the user”.

Regarding claim 5, line 5, the term “on a side of the touring bus” may be misconstrued literally as “on the left/right side of the touring bus”. Therefore, to avoid misunderstanding of the claimed language, the term “on a side of the touring bus” should be changed to “on a terminal of the touring bus”.

Claim 5, line 11, the term “on the side of the user” may be misconstrued literally as “on the left/right side of the user”. Therefore, to avoid misunderstanding of the

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claimed language, the term "on a side of the user" should be changed to "on a terminal of the user".

Claim 5, line 16, the term "on the side of the user" should be changed to "on the terminal of the user".

Claim 5, line 17, the term "a user side communication means" should be changed to "a user terminal communication means".

Dependent claims are also objected for incorporating the defects from their respective parent claims 1 and 5 by dependency.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 2 and 4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to

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which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 1, the new limitation "excludes points where the touring bus comes to a complete stop due to traffic conditions", the specification fails to distinguish between the "getting-on/off point" and the "points where the touring bus comes to a complete stop due to traffic conditions". Since at both of these points, the speed of the touring bus is zero, therefore, it is unclear how to distinguish between a zero speed "getting-on/off point" and the zero speed "stop point due traffic conditions".

Furthermore, the negative limitation, "excludes points where the touring bus comes to a complete stop due to traffic conditions", rendered the claim indefinite because it was an attempt to claim the invention by excluding what the inventor did not invent rather than distinctly and particularly pointing out what they did invent. In re Schechter, 205 F. 2d 185, 98 USPQ 144 (CCPA 1953).

Dependent claims 2 and 4 are also rejected for incorporating the defects from their respective parent claim 1 by dependency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 4, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (5,623,260) in view of Lamb (6,184,802).

Regarding claim 1, Jones discloses (Fig. 1) a touring bus running route acquisition system includes a getting-on/off point (bus stops) comprising:

on the side of the touring bus (VCU 12) includes

a geographical position acquisition means (Fig. 1 shows a GPS positioning system 25e) for acquiring the geographical position of the bus (19) at predetermined sampling periods (Fig. 4B shows the time line of the scheduled bus route) (Column 5, line 65 to column 6, line 6; and column 9, lines 59-65);

time acquisition means (Fig. 4B show the planned route event time) for acquiring the time when the geographical position is acquired (Column 9, lines 21-28) (furthermore, it is well-known in the art that the GPS would give the geographical position as well as the time of the position); and

terminal side communicating means (Figs. 2, 3A and 3B show the transceiver 18) having a function of wireless-transmitting the position and time thus acquired (Column 7, lines 42-59).

On the side of the user (both of the base station control unit (BSCU) 14 and passenger location 36 are the side of the user),

a bus data acquisition means (BSCU 14) for acquiring the geographical position and time provided by the touring bus (VCU 12) (Fig. 5 shows the time (step 54) and

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position of the bus (event list 73 includes the past and current bus locations) (Column 13, lines 46-48); and

a getting-on/off point (bus stops) specifying means (BSCU 14) for specifying the bus stops on the basis of position and time (Column 2, lines 42-51).

Jones fails to disclose a latitude/longitude acquiring means, instead of the GPS geographical position acquiring means as disclosed by Jones. Jones also fails to teach the getting-on/off point (bus stop) based on the speed equal to zero which excludes points where the touring bus comes to a complete stop due to traffic conditions.

However, Lamb discloses (Fig. 2) a GPS receiver (201) determines time and location in terms of latitude and longitude of the vehicle's position (Column 5, lines 63-66). Lamb also teaches the getting-on/off point (bus stop) based on the speed (when velocity = 0) computed from the latitude/longitude and time (Column 5, line 63 to column 6, line 28).

Therefore, it would have been obvious to a person of ordinary skill in the art to use the GPS unit for determining the location of all stops, as taught by Lamb, into the touring bus notification system Jones to provide users with a real-time estimation of the time of arrival of vehicles at user selected sites.

Regarding to the negative limitation, “excludes points where the touring bus cones to a complete stop due to traffic conditions”, Jones discloses that his bus progresses along a schedule rout with particular stop locations (i.e., not just any stop due to traffic jam) (Column 2, lines 42-46). Jones further discloses (Fig. 2) a door sensor (25b) can be used to count the number of door operations (opening/closing) of the front door (24) of the school bus (19), which should correspond with the number of stops” (i.e., getting on/off points) (Column 5, lines 58-61).

Therefore, based on the above teachings, it is obvious to a person of ordinary skill in the art to recognize that Jones only determines the getting on/off point based on the particular bus stops, but not at the stop points due to traffic jam.

Furthermore, the negative limitation, “excludes points where the touring bus cones to a complete stop due to traffic conditions”, rendered the claim indefinite because it was an attempt to claim the invention by excluding what the inventor did not invent rather than distinctly and particularly pointing out what they did invent. In re Schechter, 205 F. 2d 185, 98 USPQ 144 (CCPA 1953).

Furthermore, the term “wherein the getting-on/off point...which excludes point where the touring bus cones to a complete stop due to traffic conditions”, is a statement of intended use or field of use clause. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re

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Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Regarding claim 2, it would have been obvious to the person of ordinary skill in the art to recognize that the touring bus running route acquisition system of Jones can calculate the number of bus stops based on different running routes or newest route. Furthermore, Lamb also discloses a number of different routes can be recorded (Column 7, line 58 to column 8, line 7).

Regarding claim 4, Lamb further discloses storage means (read/write memory 307) for storing the running route (Column 7, line 58 to column 8, line 5). Furthermore, it is obvious that when a user wants to store a file in a memory, he must have a file name for that file.

Allowable Subject Matter

Claims 5-8 are objected to as due to minor informalities as set forth above, but would be allowable if rewritten to overcome the objection as set forth above.

Response to Arguments

Applicant's arguments with respect to claims 1, 2 and 4 have been considered but are moot in view of the new ground(s) of rejection.

Regarding to the negative limitation, "excludes points where the touring bus cones to a complete stop due to traffic conditions", Jones discloses that his bus progresses along a schedule rout with particular stop locations (i.e., not just any stop due to traffic jam) (Column 2, lines 42-46). Jones further discloses (Fig. 2) a door sensor (25b) can be used to count the number of door operations (opening/closing) of the front door (24) of the school bus (19), which should correspond with the number of stops" (i.e., getting on/off points) (Column 5, lines 58-61).

Therefore, based on the above teachings, it is obvious to a person of ordinary skill in the art to recognize that Jones only determines the getting on/off point based on the particular bus stops, but not at the stop points due to traffic jam.

Furthermore, the negative limitation, "excludes points where the touring bus cones to a complete stop due to traffic conditions", rendered the claim indefinite because it was an attempt to claim the invention by excluding what the inventor did not

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invent rather than distinctly and particularly pointing out what they did invent. In re Schechter, 205 F. 2d 185, 98 USPQ 144 (CCPA 1953).

Furthermore, the term "wherein the getting-on/off point...which excludes point where the touring bus comes to a complete stop due to traffic conditions", is a statement of intended use or field of use clause. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

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Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUU MATTHEW whose telephone number is (571) 272-7663. The examiner can normally be reached on Flexible Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JACK KEITH can be reached on (571) 272-7663. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M. Luu

A handwritten signature in black ink, appearing to read 'Matthew Luu', with a large, stylized initial 'M'.

MATTHEW LUU
PRIMARY EXAMINER